UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN GREER,

Plaintiff,

- against -

DENNIS MEHIEL, ROBERT SERPICO, THE BATTERY PARK CITY AUTHORITY, HOWARD MILSTEIN, STEVEN ROSSI, JANET MARTIN, MILFORD MANAGEMENT, and MARINERS COVE SITE B ASSOCIATES,

Defendants.

No. 15-CV-06119 (AJN) (JLC)

THE BPCA'S RESPONSES AND OBJECTIONS TO
PLAINTIFF'S SECOND REQUEST FOR THE PRODUCTION OF DOCUMENTS

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, the Hugh L. Carey Battery Park City Authority ("BPCA"), by its undersigned attorneys, hereby respond as follows to Plaintiff Steven Greer's Second Request for the Production of Documents, dated February 17, 2017 (the "Requests," each a "Request").

SPECIFIC OBJECTIONS AND RESPONSES

Request No. 1

After a specific defined electronic search of the computers and storage methods for emails, from the date range of 1/1/2012 through 8/4/2015, provide any all emails which mention, "Steven Greer", "Greer", "200 Rector Place", or any nickname assigned to Plaintiff by BPCA staff, "BatteryPark.TV", "Steve Rossi", "Milford Management", "Janet Martin", "Loraine Doyle", to list some of the search words that might be within emails discussing Plaintiff. The purpose of this request is to demonstrate that the defendants were planning the conspiracy against Plaintiff.

Response to Request No. 1

The BPCA objects to this request on the grounds that the phrases "a specific defined electronic search of the computers and storage methods for emails," "any nickname assigned to Plaintiff by BPCA staff," and "some of the search words that might be within emails discussing Plaintiff" are vague, ambiguous, and unclear. The BPCA further objects to this request on the grounds that Plaintiff's proposed date range is overbroad in light of Plaintiff's remaining claims. In its Memorandum and Order dated September 30, 2016, the Court narrowed the scope of this action considerably and held that only the following claims survive: (i) the First Amendment retaliation claim; and (ii) the First Amendment public meeting claim (the "Remaining Claims"). On its face, Plaintiff's proposed date range sweeps far beyond these two claims and is therefore overbroad. The BPCA further objects to this request to the extent that Plaintiff's proposed search terms "200 Rector Place," "Steve Rossi," "Milford Management," "Janet Martin," and "Loraine Doyle" are not relevant to any party's claim or defense in light of the Remaining Claims. The BPCA further objects to this request to the extent that it calls for the production of privileged information.

Subject to these objections, the BPCA will produce non-privileged documents in their possession, which are responsive to this request insofar as any such documents are relevant to the Remaining Claims, by March 10, 2017. The BPCA is withholding all other documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 2

The specific documents that detail the lease between the BPCA and the real estate defendants for the office space in the ground floor of 200 Rector Place. This should include the RFP for the construction process, the actual lease, and any communications among BPCA staff that discuss the need for the office space. The purpose is to demonstrate that the lease was for office space not needed by the BPCA and was really a *quid pro quo* payback as part of the conspiracy and collusion alleged in the complaint.

Response to Request No. 2

The BPCA objects to this request on the grounds that it is seeks information not relevant to the Relevant Claims. In particular, Plaintiff already made a similar request in his First Request for the Production of Documents (Request No. 9), to which the BPCA objected, and the Court denied Plaintiff's motion to compel the production of such documents. In an order affirmed by Judge Nathan, Magistrate Judge Cott ruled that Plaintiff's prior requests for "all documents relating to any business transactions between BPCA and the Landlord Defendants, including BPCA's lease of office space within Greer's former building" were "both overbroad and irrelevant to the remaining claims." *See* Order at 3, ECF No. 228 (the "Order"). Additionally, on February 22, 2017, Magistrate Judge Cott ruled orally that Plaintiff's theory of a "*quid pro quo*" arrangement was too speculative and not relevant to any party's claim or defense.

Pursuant to this objection, the BPCA is withholding documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 3

The specific documents that detail the location of all office space for the BPCA within the Battery Park City region. The large lease documents are not essential. We simply seek the locations and size in square footage of the entirety of the footprint of BPCA office space. The purpose is to show that the lease for space in 200 Rector Place was not needed.

Response to Request No. 3

The BPCA objects to this request on the grounds that the phrase “large lease documents are not essential” is vague, ambiguous, and unclear. The BPCA further objects to this request on the grounds that it seeks information not relevant to the Remaining Claims. In particular, Plaintiff already made a similar request in his First Request for the Production of Documents (Request No. 9), to which the BPCA objected, and the Court denied Plaintiff’s motion to compel the production of such documents. In an order affirmed by Judge Nathan, Magistrate Judge Cott ruled that Plaintiff’s prior requests for “all documents relating to any business transactions between BPCA and the Landlord Defendants, including BPCA’s lease of office space within Greer’s former building” were “both overbroad and irrelevant to the remaining claims.” *See* Order at 3.

Pursuant to this objection, the BPCA is withholding documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 4

Specific documents, from 1/1/2013 through to current day, that directly relate to the scheme to set up a video viewing room on the parks office on West Thames in which members of the public could view the board meetings. The purpose of this request is to detail the planning and strategy for the violation of Plaintiff’s First Amendment rights to report on the board meetings.

Response to Request No. 4

The BPCA objects to this request on the grounds that the phrase “scheme” is vague, ambiguous, and unclear. The BPCA further objects to this request as overbroad insofar as it requests documents relating to *all* instances in which a “video viewing room” was set up for the public to view a BPCA board meeting, rather than the single instance at issue in this action. The BPCA further objects to this request as substantially duplicative of Request No. 6 in Plaintiff's First Request for the Production of Documents, which requests "[a]ll documents, communications, and correspondences which support, evidence, relate or otherwise pertain to Defendant's claim that the board meeting live video simulcast room set up arrangement was not done specifically to keep Plaintiff out of the public meetings and to violate the First Amendment." The BPCA objected to that request but agreed to produce non-privileged documents in its possession that are responsive to that request.

Subject to these objections, the BPCA will produce non-privileged documents in their possession that relate to the decision to set up a "video viewing room" for its meeting on July 29, 2015, including documents reflecting Plaintiff's inappropriate and harassing behavior towards BPCA personnel and disruptive activity at BPCA board meetings, by March 10, 2017. The BPCA is withholding all other documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 5

From 1/1/2013 to 8/4/2015, documents that pertain to any meeting of any kind between Robert Serpico or any BPCA staff or board members, with any of the real estate defendants or employees of the real estate defendants. Logs from the sign-in desk on the 24th floor BPCA offices are to be included. The purpose of this request is to detail the communications and strategy for the conspiracy alleged in the complaint.

Response to Request No. 5

The BPCA objects to this request because the phrase "documents that pertain to any meeting" is vague, ambiguous, and unclear. The BPCA further objects to this request as overbroad in that it seeks information about meetings between *all employees* at BPCA and *all employees* at the real estate defendant's office about *all subjects*. In particular, Magistrate Judge Cott has already ruled that Plaintiff is not entitled to discovery concerning each and every meeting between the BPCA Defendants and the Real Estate Defendants. *See* Transcript of Proceedings at 21–22, Feb. 22, 2017.

Subject to these objections, the BPCA will produce non-privileged communications in their possession between the BPCA Defendants and the real estate defendants that relate to Plaintiff or his apartment lease at 200 Rector Place insofar as any such communications are relevant to the Remaining Claims, by March 10, 2017. The BPCA is withholding all other documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 6

Documents that relate to BPCA defendants' personal real estate transactions, such as the sale of apartments by Howard Milstein or Mariners Cove Site B Associates to BPCA staff and board members, ever. The purpose of this request is to demonstrate an unusually cozy relationship that would be essential in order to have the conspiracy alleged in the complaint.

Response to Request No. 6

The BPCA objects to this request on the grounds that the phrase "personal real estate transactions" is vague and ambiguous. The BPCA further objects to this request as overbroad and unduly burdensome insofar as it requests all documents relating to personal real estate transactions "ever." The BPCA further objects to this request on the grounds that it seeks information not relevant to the Remaining Claims. In particular, Plaintiff already made a similar request in his First Request for the Production of Documents (Request No. 10), to which the BPCA objected, and the Court denied Plaintiff's motion to compel the production of such documents. In an order affirmed by Judge Nathan, Magistrate Judge Cott ruled that Plaintiff's prior request for "documents pertaining to the BPCA Defendants' personal real estate transactions" was "both overbroad and irrelevant to the remaining claims." *See* Order at 3.

Pursuant to these objections, the BPCA is withholding documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Request No. 7

Documents that prove Defendants' claim that Plaintiff was disruptive during BPCA board meetings.

Response to Request No. 7

The BPCA objects to this request insofar as the term "disruptive" is vague, ambiguous, and unclear.

Subject to this objection, the BPCA will produce relevant, non-privileged documents in its possession that are responsive to this request, including documents reflecting Plaintiff's inappropriate and harassing behavior towards BPCA personnel and disruptive activity at BPCA board meetings, by March 10, 2017.

Request No. 8

The addresses, email contacts, and phone contact information for the following BPCA staff, or former staff:

- Dennis Mehiel
- Shari Hyman
- Robert Serpico
- Kevin McCabe
- Alix Pustilnik
- Seema Singh
- Robin Forst
- Brenda McIntyre
- Tessa Huxley
- Vince McGowan

- Anne Fenton
- Matthew Monahan
- Kirk Swanson
- Demetrios Boutris
- Andrew Rafalaf
- The wife of Deshay Crabb
- Deshay Crabb
- Elizabeth Papanicolaou
- Nancy Harvey
- Allison Ford

The purpose of this request is to learn more about possible witnesses to be called by Plaintiff or to be deposed.

Response to Request No. 8

The BPCA objects to this request as overbroad and unduly burdensome insofar as Plaintiff has not demonstrated a particular need for the contact information for all of the individuals listed in this request. The BPCA further objects to this request on the grounds that it seeks information not relevant to the Remaining Claims. In particular, Plaintiff served a request for the same documents in his First Request for the Production of Documents (Request No. 17), to which the BPCA objected, and the Court denied Plaintiff's motion to compel the production of such documents. In an order affirmed by Judge Nathan, Magistrate Judge Cott ruled that "Greer provides no basis for the production of this contact information, or how any of these individuals have any connection to his remaining claims," and that "[a]bsent such a showing, Defendants need not provide this information." *See* Order at 4. In his unsuccessful appeal to Judge Nathan, Plaintiff contended that all of these individuals are potential witnesses because they "work(ed) in cubicles in the same small office of the BPCA" and "saw Serpico daily." In affirming Magistrate Judge Cott's order, Judge Nathan rejected Plaintiff's theory of relevance. Thus, Plaintiff has not demonstrated a need for additional contact information.

Pursuant to these objections, the BPCA is withholding documents potentially responsive to this request. *See* Fed. R. Civ. P. 34(b)(2)(C).

Dated: March 6, 2017
New York, NY

SHER TREMONTE LLP

By: ______________________

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